

# Block awaits ruling on appeal

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THE TRIFECTA accused, former ANC provincial chairman John Block and the CEO of the Trifecta group of companies, Christo Scholtz, will remain on bail until judgment is delivered on their application for leave to appeal to the Supreme Court of Appeal.

Both accused intend appealing their conviction on charges of corruption and money laundering as well as the 15-year sentence that was imposed last year.

The court found that undue influence was used to conclude government leases with Trifecta, in exchange for gratifications.

The defence advised the Northern Cape High Court yesterday that they were convinced that there was a reasonable prospect of success that another court would arrive at a different conclusion.

They argued that the receipt of a gratification after an act had been committed did not constitute an act of corruption if no prior agreement existed for a promise of a reward.

Legal representative for Block, senior Advocate Salie Joubert, stated that their application was based on the complex nature of the case, constitutional issues and questions regarding the ambiguous interpretation of the Prevention of Corruption Act.

"Let the Supreme Court of Appeal be the ones to put the stamp of approval for sentencing Block to 15 years imprisonment, for making two telephone calls in 2005," said Joubert.

He made reference to telephone conversations that took place between the former director at the Department of Public Works, Eubraim Crouch, and Block.

Crouch testified that he was coerced into facilitating government leases with the Trifecta group by Block.

Joubert stated that Block had never ordered anyone not to follow procedures.

"He had nothing to do with the money that was received from the rentals. It cannot amount to money laundering or the unlawful receipt of money as 12 years after the leases were entered into, state departments are still occupying the premises. Block is not being charged for the unlawful contracts but rather for receiving a gratification on behalf of someone who was awarded leases."

He urged the presiding officer, Judge Mmathebe Phatsoane, to



**WAITING:** Former chairperson of the African National Congress in the Northern Cape, John Block, and businessman Christo Scholtz will have to wait for the outcome of their appeal against their conviction and 15 year jail sentence in the NC High court.

Picture: Soraya Crowie

"stand back" and allow another court to make its ruling, even if she felt that she had "in her heart, made the right decision".

He believed that it would be inappropriate to refer the matter to a full bench of the Northern Cape High Court.

"Block was convicted of a very serious finding while his co-accused, the former MEC for the Department of Social Development, Alvin Botes, was acquitted on virtually the same basis. In fact, Block advised against some of the leases while other MECs and HODs decided to go ahead."

Joubert added that he was unable to find a single reported matter that supported the interpretation of the corruption charge as stipulated in the Trifecta judgment.

"The eight salaries for example that were paid to Block were not part of a gratification as the company was only established a year after the so-called act was committed."

He stated that there was no evidence that renovations to the home of the former HOD for the Department of Social Development, Yolanda Botha, who died during the course of the trial, were a commitment to "return a favour" for facilitating leases with the department.

"Botha was a Member of Parliament at the time and was not employed by the Department of Social Development and interest on the loan would have applied. Botha spoke to a family member employed at Trifecta to request if they could assist her with the loan. She never approached Scholtz directly.

## Donation

"Botha testified that she had not influenced anyone and was satisfied that everything was done within the confines of the law. The R15 000 donation that was given to Botha as a donation to the ANC, was given to her in an envelope."

Advocate Tokkie van Zyl, who is representing Scholtz, added that there was no substantial evidence to prove that his client was involved in orchestrating the lease agreements.

"The sentence imposed is disproportionate to his involvement in the offences committed. If a court, on appeal, finds that Scholtz played a lesser role, a lighter sentence should be imposed."

He requested that the Supreme Court of Appeal be allowed to scrutinise the decision of the court on the corruption finding.

"The accused has a constitutional right to appeal. If the court was incorrect in its interpretation, the lower courts will be guided by this decision where other accused persons will be wrongly convicted. If the decision of the court stands, the accused will serve out their sentences as prescribed."

State prosecutor Peter Serunye argued that the accused were given a just and fair sentence.

"The court should not be swayed into granting the accused leave to appeal. The monies that flowed into Trifecta was dirty money that was obtained in a corrupt manner. Corruption is a serious offence. Government is losing money and municipalities do not have the funds to deliver services."

Serunye added that all the accused played an equal role in the commission of the crimes.

"All factual findings made by the court were correct. The judge argued on the merits of the case and was consistent with her findings."

Serunye insisted that there was no way that legislation would exclude incidences of corruption where a gratification was awarded after an act was intentionally committed.

He stated that whether a reward was either directly or indirectly of-

fered – before or after a corrupt act was committed – was irrelevant.

"Block never denied receiving gratifications. The telephone conversations between state witness Eubraim Crouch and Block still forms part of the evidence.

"Block requested Crouch to assist Trifecta director Sarel Breda as he was involved in the property industry.

"Whether Crouch managed to influence departmental officials to award tenders is immaterial. The parties colluded to award a tender to Trifecta and Block in turn received gratifications."

He related how Crouch had testified that he had advised Block that procedures had to be followed when contracts were entered into, as well as how "everyone listened when their leader, Block spoke".

"Block, Breda and Crouch were central to awarding contracts to Trifecta."

Serunye added that the loan that was granted by Trifecta to Botha, was never reflected in the books.

"There was no record of the loan and it was only after a parliamentary inquiry was launched that it was discovered."

A suitable date will be arranged for judgment to be delivered on the application for leave to appeal.